

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN McCRAY, Sr., et al

Defendants.

No. 05-CR-30027-DRH

MEMORANDUM AND ORDER

HERNDON, Chief Judge:

Now before the Court is Strahan's motion and affidavit to proceed in District Court without prepaying fees or costs (Docs. 312). The Court **DENIES** this motion. First, Strahan's motion does not state the circumstances for which he would like to proceed in the District Court without prepaying fees or costs. Second, there is nothing pending in Strahan's criminal case as it is closed.

Previously on June 25, 2010, the Court denied Strahan's motion to compel production of records, transcripts and discovery material (Doc. 310).¹ In that Order, the Court reiterated its findings regarding Strahan's credibility and found that Strahan's counsel Steven Stenger complied with Strahan's requests. Further, the Court notes in order to obtain transcripts/documents free of charge Strahan must demonstrate: (1) that he has exhausted *all* means of access to his files (*i.e.* through

¹In that motion, Strahan moved to compel his former counsel to return his case file so that he may prepare his Section 2255 habeas petition.

his trial and appellate counsel), (2) that he is financially unable to secure access to his court files (*i.e.*, through a showing similar required in 28 U.S.C. § 1915(a)(2) which includes a certified copy of the prisoner's account for the previous six-month period prior to filing), and (3) that the documents requested are necessary for the preparation of some specific non-frivolous court action. ***See United States v. Wilkinson*, 618 F.2d 1215, 1218-19 (7th Cir. 1980); *Rush v. United States*, 559 F.2d 455, 459 (7th Cir. 1977).** Bald allegations that he needs the documents will not do. Moreover, case law indicates that Strahan must first file the 2255 action in order to obtain transcripts. ***See United States v. Horvath*, 157 F.3d 131, 132-33 (2nd Cir. 1998)(collecting cases).**

IT IS SO ORDERED.

Signed this 15th day of September, 2010.

/s/ David R. Herndon

**Chief Judge
United States District Judge**